

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-015-00080R

Parcel No. 170000104001000

Wayne Nelson,
Appellant,

v.

Cass County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 17, 2016. Wayne Nelson was self-represented. Attorney Brett Ryan, of Watson & Ryan, Council Bluffs, represented the Cass County Board of Review.

Nelson is the owner of a residential property located at 75393 Agency Lane, Albia. The subject property includes a one-and-one-half story dwelling, built in 1920, with 1918 square feet of living area; a three-quarter basement with 296 square-feet of finish; two decks, and two patios. The dwelling is listed in above-normal condition with an average-quality construction quality (Grade 4-05). The property also has a 625 square-foot corn crib; a 729 square-foot detached garage; a 1075 square-foot steel building built in 2013; and a 1004 square-foot building built in 2014. The site is 9.23-acres.

The property's January 1, 2015, assessment was \$170,630, allocated as \$40,850 in land value and \$129,780 in dwelling/improvement value. Nelson's protest to the Board of Review claimed that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). The Board of Review

denied the protest. Nelson then appealed to PAAB. He claims the correct value is \$123,270.

Findings of Fact

Nelson testified that he is not challenging the assessed value of the land or dwelling. However, in his opinion, the two steel buildings are over assessed. Nelson reports he constructed the buildings himself using salvage materials from job sites. He estimated it cost him roughly \$11,000 to build them.

Nelson offered advertisements for metal post buildings. He argues the cost to construct a metal post building is less than the cost the Assessor attributed to his structures. The advertisements show the cost of constructing a new metal post building could range from approximately \$6000 to roughly \$26,000, depending on the dimensions, overhead door count, and other amenities. He indicates his buildings are most comparable to 30'x40'x10' buildings, which the advertisements indicate cost anywhere from \$5984 to \$13,800.

The property record card shows that Nelson's buildings are 26'x38' and 24'x44' and are valued as steel utility buildings with a rigid steel frame. (Ex. A; See Iowa Real Property Appraisal Manual, 8-32). The record does not disclose the buildings' ceiling heights or overhead door count. Nelson's buildings are assessed at \$21,710 and \$22,200 respectively.

Nelson testified the buildings have steel roofs and sheeting, but not a steel frame. He submitted photographs of the interior of the buildings to show they are primarily constructed of wood, with some steel girders. He further stated that his buildings do not have a concrete floor or power and are used for storage.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of

Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The Board of Review argues that Nelson has not met his burden because he has not shown the total value of his assessment is excessive and also has not shown the total correct value of the property. It relies on *White v. Bd. of Review of Polk County*, 244 N.W.2d 765 (Iowa 1976), and *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527 (Iowa 1956) in support of this argument.

In *White*, taxpayers challenged the inclusion of non-existent buildings on their assessment. 244 N.W.2d at 766. Without deciding if the taxpayers properly raised an error claim under Iowa Code section 441.37(4) (1971) (now 441.37(1)(a)(1)(d)), the Court acknowledged "the question should logically remain to be whether the assessments as a whole and as approved by the Board [of Review] are sustainable." *Id.* at 769. It further stated, "inclusion of a nonexistent item in an assessment should not render that assessment void per se if the valuation as a whole is correct." *Id.* The Court

then considered the parties' evidence valuing the property as a whole and affirmed the assessment set by the assessor. *Id.* at 772.

Similarly, *Deere Manufacturing* sought to challenge the "valuations upon land, buildings, and equipment and [did] not challenge the values of machinery, jigs, and dies." 78 N.W.2d at 529. The Court recognized that *Deere Manufacturing* did not attempt to show the 100 percent total value fixed by the assessor was excessive or inequitable. *Id.* at 530. Rather, *Deere Manufacturing* attempted to prove its claims by "evidence the assessor in computing such total value placed too high values upon the land and buildings, exclusive of machinery, jigs, dies and tools." *Id.* However, the Court concluded that the "ultimate issue...was whether the total values affixed by the assessment roll were excessive or inequitable." *Id.* In short, "it was not sufficient to offer evidence tending to show the buildings, exclusive of the machinery, were valued too high or inequitably." *Id.* The Court then analyzed the evidence concerning the property's value and removed the 12 percent reduction ordered by the District Court and upheld the values determined by the assessor and board of review. *Id.* at. 536.

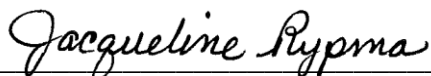
Following *White* and *Deere Manufacturing* and in light of Nelson's overassessment claim under section 441.37(1)(a)(1)(b), we examine the evidence of the subject property's value as a whole. Nelson's evidence indicates that his buildings may be incorrectly listed and the value applied to those buildings may be excessive if they are in fact primarily wood frame buildings. However, this evidence does not demonstrate the value as a whole is incorrect. With the exception of the assessment itself, the record is absent of any evidence of the property's value as whole. Accordingly, we affirm the assessment.

While Nelson's evidence and testimony indicates there may be a listing error on the property record card, an error claim under section 441.37(1)(a)(1)(d) is not properly before this Board. We recommend that Nelson arrange for an inspection of his property with the Assessor's Office to clarify the buildings are correctly listed before the next assessment cycle.

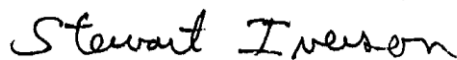
Order

IT IS THEREFORE ORDERED that the Cass County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Jacqueline Rypma, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

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